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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 DAVID D. BUTLER,

10 Plaintiff,

11 v.

12 JAMES HANKEN, et al.,

13 Defendant.

CASE NO. 2:23-cv-01624-LK-BAT

**ORDER DIRECTING SERVICE BY
FIRST-CLASS MAIL AND
PROCEDURES**

14 Plaintiff is proceeding *pro se* and *in forma pauperis* in this federal civil rights action.

15 The Court **ORDERS** as follows:

16 (1) Service by Clerk

17 The Clerk is directed to send the following to defendants (1) **James Hanken**, Psychology
18 associate Monroe Correctional Complex, (2) **Calvin Cogburn** PMHNP-BC Monroe
19 Correctional Complex, and **Dr. Steven Jewitt**, Monroe Correctional Complex by first class mail:
20 a copy of plaintiff's complaint and of this Order, two copies of the Notice of Lawsuit and
21 Request for Waiver of Service of Summons, a Waiver of Service of Summons, and a return
22 envelope, postage prepaid, addressed to the Clerk's office.

23 The Clerk shall also send a courtesy copy of the complaint and of this Order to the
Washington State Attorney General, by first-class mail and email.

1 (2) Response Required

2 Defendants shall have **30 days** within which to return the enclosed waiver of service of
3 summons. Any defendant who timely returns the signed waiver shall have **60 days** after the date
4 designated on the notice of lawsuit to file and serve an answer to the complaint or a motion
5 permitted under Rule 12 of the Federal Rules of Civil Procedure.

6 Any defendant who fails to timely return the signed waiver will be personally served with
7 a summons and complaint and may be required to pay the full costs of such service, pursuant to
8 Rule 4(d)(2). A defendant who has been personally served shall file an answer or motion
9 permitted under Rule 12 within **21 days** after service.

10 **Defendants MUST serve a *Rand* notice concurrently with motions to dismiss based**
11 **on a failure to exhaust and motions for summary judgment so that *pro se* prisoner plaintiffs**
12 **will have fair, timely and adequate notice of what is required of them in order to oppose**
13 **those motions. *Woods v. Carey*, 684 F.3d 934 (9th Cir. 2012).** The Ninth Circuit set forth
14 model language for such notices:

15 A motion for summary judgment under Rule 56 of the Federal
16 Rules of Civil Procedure will, if granted, end your case.

17 Rule 56 tells you what you must do in order to oppose a motion for
18 summary judgment. Generally, summary judgment must be
19 granted when there is no genuine issue of material fact – that is, if
20 there is no real dispute about any fact that would affect the result
21 of your case, the party who asked for summary judgment is entitled
22 to judgment as a matter of law, which will end your case. When a
23 party you are suing makes a motion for summary judgment that is
 properly supported by declarations (or other sworn testimony), you
 cannot simply rely on what your complaint says. Instead, **you**
 must set out specific facts in declarations, depositions, answers
 to interrogatories, or authenticated documents, as provided in
 Rule 56(e), that contradict the facts shown in the defendant's
 declarations and documents and show that there is a genuine
 issue of material fact for trial. If you do not submit your own
 evidence in opposition, summary judgment, if appropriate,

1 **may be entered against you. If summary judgment is granted,**
2 **your case will be dismissed and there will be no trial.**

3 *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998) (emphasis added).

4 **Defendants who do not file and serve, in a separate document, the required *Rand***
5 **notice will face (a) immediate denial of their motions with leave to refile and (b) possible**
6 **monetary sanctions.**

7 (3) Filing and Service by Parties Generally

8 All attorneys admitted to practice before this Court are required to file documents
9 electronically via the Court's CM/ECF system. Plaintiff shall utilize the mandatory e-filing
10 procedure set forth in General Orders 02-15 and 06-16. Pleadings that do not comply with these
11 rules may be stricken. All filings, whether filed electronically must indicate in the upper right
12 hand corner the name of the Magistrate Judge to whom the document is directed.

13 Additionally, any document filed with the Court must be accompanied by proof that it
14 has been served upon all parties that have entered a notice of appearance in this case.

15 (4) Motions

16 Regarding the filing of motions before the Court, the parties are directed to review Local
17 Rule CR 7 in its entirety. A few important points are highlighted below:

18 Any request for court action shall be set forth in a motion, properly filed and served.
19 Pursuant to Local Rule CR 7(b), any argument being offered in support of a motion shall be
20 submitted as a part of the motion itself and not in a separate document. **The motion shall**
21 **include in its caption (immediately below the title of the motion) a designation of the date**
22 **the motion is to be noted for consideration upon the court's motion calendar.**

In all instances where one of the parties to a lawsuit is incarcerated, all categories of non-dispositive motions not listed in Local Rule CR 7(d)(1) must be noted for the third Friday after the date of filing and service. See Local Rule CR 7(d)(2).

All dispositive motions shall be noted for consideration no earlier than the fourth Friday following filing and service of the motion.

(5) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. **All relevant information and papers are to be directed to the Clerk.**

(6) The Clerk is directed to provide a copy of this Order to Plaintiff.

DATED this 7th day of December, 2023.


BRIAN A. TSUCHIDA
United States Magistrate Judge